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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.437 OF 2006  
IN  
SUIT NO.219 OF 2006

Smt. Purnima Shantilal Dedhia  
(Jain) & Ors. ....Plaintiffs

V/s.

Smt. Malti Madhav Desai ....Defendant

Mr.G.V. Murti, Advocate, i/b. Mamta Shah, for the  
Plaintiffs.

Mr.S.G. Bhandary, Advocate, i/b. Bhandary & Bhandary,  
for the Defendant.

**CORAM: S.J.VAZIFDAR, J.**  
**DATED: 4TH SEPTEMBER, 2006.**

**P.C. :-**

. There is no dispute that pursuant to an auction conducted by the BMC, the Plaintiffs purchased the suit property. The auction was held on 7th March, 2002. The procedure regarding informing the tenants of the said auction, sale has been completed.

2. On 30th April, 2003, the BMC has also issued a Sale Certificate. The Defendant was the erstwhile owner of the property. She challenged the auction in a writ petition which by an order dated 28th April, 2003 she was allowed to withdraw.

3.        Thereafter, she filed the suit challenging the auctioned sale on 4th September, 2004. No interim orders have been passed in that suit.

4.        In the circumstances, the Notice of Motion is made absolute in terms of prayer (b).

5.        Mr. Bhandary, learned counsel appearing on behalf of the Defendant agrees and undertakes that in the event of the Plaintiffs succeeding in the suit, the Defendant shall pay the amount of Rs.1,41,647/- together with interest at such rate as may be determined by the Court at the final hearing of the suit.

6.        The parties have agreed to have the evidence recorded by the Commissioner. Mr. A.K. Saxena is appointed as Commissioner for the purpose of taking evidence. The parties are directed to appear for oral evidence and submit the documents, if any, before the Commissioner. The Commissioner shall record the objections thereto, if any.

7.        The parties are at liberty to cross-examine the witnesses without prejudice to their rights and contentions.

8. The written statements to be filed within a period of six weeks from today. Discovery and inspection forthwith thereafter.

9. The suit to be placed on board for issues on 6th November, 2006.

10. The Notice of Motion is accordingly disposed of.